

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE

UNITED STATES OF AMERICA,	)	
Plaintiff	)	
	)	
vs.	)	No. 3:16-CR-20
	)	(Collier/Guyton)
MARK HAZELWOOD et al.,	)	
Defendant	)	

**MOTION REQUESTING MODIFICATION OF TERMS OF RELEASE**

Mark Hazelwood, through counsel, files this motion requesting the Court to modify the terms of his release to permit him to attend Easter services at New Life Gathering, and to permit Joanne Hazelwood's sister Patricia Previtera-Lester to step in as third-party custodian from April 3rd to April 14th while Mrs. Hazelwood travels.

**I. FACTUAL BACKGROUND**

On November 13, 2018, the Court of Appeals for the Sixth Circuit granted Mr. Hazelwood's request for release pending appeal. R. 21, Order, *United States v. Hazelwood*, No. 18-6023 (6th Cir.). This Court continued the terms of his pretrial release, which include home incarceration. (Doc. 791).

Since Mr. Hazelwood's conviction, the Court has permitted, or the Probation Office has directed him, to leave his home on numerous occasions, all without incident:

- On **February 15, 2018**, Mr. Hazelwood was permitted to leave the Courthouse after the verdict, and he voluntarily appeared before Magistrate Guyton the next day (on **February 16<sup>th</sup>**) without absconding.
- His ankle monitor was not activated until **February 17, 2018**, which Mr. Hazelwood knew, and yet he did not flee.

- After the monitor was activated on February 17th, it was not functioning and needed to be exchanged for a new device: Mr. Hazelwood did not flee, despite his knowledge of the problem.
- On **February 18, 2018**, Mr. Hazelwood was permitted to leave his residence to attend the funeral of a close friend. He did so without any incident and without taking any steps to flee.
- On **June 18, 2018**, Supervising Probation Officer Josh Brown contacted Mr. Hazelwood, telling him that his monitor's battery was low on power, the monitor would be shut off, and Mr. Hazelwood would need to appear at his office to have a replacement battery installed. Mr. Hazelwood complied without incident.
- On **July 8, 2018**, the Probation Office required Mr. Hazelwood's attendance in their office for his Presentence interview. He attended without incident.
- On **August 17, 2018**, the Court granted Mr. Hazelwood's request to visit his doctor for an upper-respiratory infection. Mr. Hazelwood attended without incident.
- On **August 26, 2018**, the Probation Office allowed Mr. Hazelwood to travel—unmonitored and unescorted—to his sentencing proceeding in Chattanooga, which he did without incident.
- On **September 4, 2018**, the Court granted Mr. Hazelwood's request to leave his home to visit his daughter's grave, and the visit occurred without incident.
- On **November 5, 2018**, the U.S. Marshals Service directed Mr. Hazelwood to appear in their office to sign a prison designation form. The Marshals gave Mr. Hazelwood a total of 90 minutes away from his home to make the trip, sign the paper, and return to his home: he did it in 42 minutes.

- On **February 3, 2019**, the Court again granted Mr. Hazelwood's request to leave his home to visit his daughter's grave, and the visit occurred without incident.
- From **March 5-11, 2019**, Mr. Hazelwood was permitted to travel to Nashville for his wife's medical procedure and recovery.

During all of these events, Mr. Hazelwood has scrupulously abided each and every instruction from the Probation Office when he was allowed or required to be outside his home, or when his monitoring equipment failed. We again ask the Court to modify Mr. Hazelwood's bail in two ways.

First, Mr. Hazelwood requests permission to travel to his church, New Life Gathering, for Easter service in celebration of his faith. Second, Mr. Hazelwood also asks this Court to modify his bail to permit Mrs. Hazelwood's sister, Patricia Previtera-Lester, to step in as third-party custodian while Mrs. Hazelwood travels.

## **II. MODIFICATION REQUEST**

### **A. Request to Attend Easter Services**

Mr. Hazelwood is a devout Christian, and, "Easter is the most important Christian religious holiday." (Doc. 766). The Court is aware of Mr. Hazelwood's devotion to his Christian faith and his active participation in weekly Bible study through the scores of letters submitted at sentencing. Thus, we request that Mr. Hazelwood be permitted to attend church Easter morning at New Life Gathering. He will coordinate his departure and arrival times with Pretrial services, keeping them updated throughout as is his practice when leaving his home.

### **B. Request for Temporary Substitute Third-Party Custodian**

Mrs. Hazelwood is scheduled to travel from April 3-14, 2019. During that time, to fulfill the third-party custodian mandate, we ask that Mrs. Hazelwood's sister be permitted to step in as

substitute third-party custodian. She will be informed of her duties and will sign the bond conditions.

I have spoken to AUSA Trey Hamilton and he has no objection to the request to attend Easter services as long as Mr. Hazelwood complies with Pretrial's instructions and defers to the Court. Mr. Hamilton likewise has no objection to Mrs. Hazelwood's sister acting as substitute third-party custodian and defers to the Court. I have also spoken to Pretrial defers to the Court regarding Easter Sunday as it falls outside their ability to approve and takes no position with respect to Mrs. Hazelwood's sister acting as third-party custodian.

**WHEREFORE**, Mr. Hazelwood requests that this Honorable Court enter an Order modifying the conditions of his release allowing him to attend church on Easter Sunday and for Mrs. Hazelwood's sister to step in as third-party custodian from April 3-14, 2019.

**DATED:** Knoxville, Tennessee  
March 25, 2019

Respectfully submitted,

s/ Bradley L. Henry  
Bradley L. Henry (TN Bar No. 025447)  
Breeding Henry Baysan PC  
900 S. Gay St.  
Suite 1950  
Knoxville, TN 37902  
(865) 670-8535  
bhenry@bhblegal.com

s/ Jim Walden  
Walden Macht & Haran  
One Battery Park Plaza  
New York, New York 10004  
(212) 335-2031  
jwalden@wmhlaw.com

### **CERTIFICATE OF SERVICE**

I hereby certify that, on March 25, 2019, a true and correct copy of the foregoing document was filed on CM/ECF with the U.S. District Court for the Eastern District of Tennessee. Notice of this filing was served on all CM/ECF parties.

/s/ Bradley L. Henry